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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,500	08/26/2003	Kirby G. Dahman	TUC920030122US1	5882
49080	7590	12/12/2005	EXAMINER	
DALE F. REGELMAN 4231 S. FREMONT AVENUE TUCSON, AZ 85714			IWASHKO, LEV	
			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/649,500	Applicant(s) DAHMAN ET AL.	
	Examiner Lev I. Iwashko	Art Unit 2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,16-18 and 24 is/are rejected.
- 7) ☒ Claim(s) 3-7,11-15 and 19-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Drawings 1-9B have reference numbers that are hand-written, and they should all be typed. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

2. Claims 3-7, 11-15, and 19-24 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following are quotations of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 9, and 17 are rejected under U.S.C. 102(e) as being anticipated by Fish (US PGPub 2003/0088531 A1).

- Claim 1. A method to read (N) sequential files (*Section 0117, lines 3-4 – State that the files are sequential*)
- written to an information storage medium, and then skip the next (M) sequential files, wherein said information storage medium is disposed in a data storage device, comprising the following steps in the following order: (*Sections 0099 and 0100 – State that there is a read_inode and write_inode that each identify which inode needs to be written or read, as well as what logical blocks are to be requested*)
 - identifying said (M) files; (*Section 0104, lines 4-5 – State that particular files are identified*)
 - reading said (N) files. (*Section 0112, lines 1-2 – State that there is a read() method*)
- Claim 9. An article of manufacture comprising a computer useable medium having computer readable program code disposed therein
- to read (N) sequential files written to an information storage medium, and then skip the next (M) sequential files, wherein said information storage medium is disposed in said article of manufacture, the computer readable program code comprising a series of computer readable program steps to effect in the following order: (*Section 0117, lines 3-4 – State that the files are sequential. Sections 0099 and 0100 – State that there is a read_inode and write_inode that each identify which inode needs to be written or read, as well as what logical blocks are to be requested*)

- identifying said (M) files; *(Section 0104, lines 4-5 – State that particular files are identified)*
- reading said (N) files. *(Section 0112, lines 1-2 – State that there is a read() method)*

- Claim 17. A computer program product usable with a programmable computer processor having computer readable program code embodied therein to *(Section 0093, lines 2-4 – State that there is a program product)*
- read (N) sequential files written to an information storage medium, and then skip the next (M) sequential files, wherein said information storage medium is disposed in a data storage device, comprising:
(Section 0117, lines 3-4 – State that the files are sequential. Sections 0099 and 0100 – State that there is a read_inode and write_inode that each identify which inode needs to be written or read, as well as what logical blocks are to be requested)
 - computer readable program code which causes said programmable computer processor to identify said (M) files; *(Section 0018 – Describes the kernel operating code. Section 0104, lines 4-5 – State that particular files are identified)*
 - computer readable program code which causes said programmable computer processor to read said (N) files after identifying said (M) files. *(Section 0018 – Describes the kernel operating code. Section 0112, lines 1-2 – State that there is a read() method)*

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 10 and 18 are rejected under 35 U.S.C.103(a) as being unpatentable over Fish as applied to claims 1, 9, and 17 above, further in view of Osterlund (US Patent 5,034,914).

Fish teaches the limitations of claims 1, 9, and 17 for the reasons above.

Fish's invention differs from the claimed invention in that there is no defined order of skipping and reading files.

Fish fails to teach claims 2, 10, and 18 which state that there is a step "of skipping said (M) files after said reading step". However, Osterlund declares that "the tape drive will typically read the next record into a random-access memory or other buffer for subsequently supplying it to the host" (Column 1, lines 60-62). Osterlund further states that "The host can "skip a portion of the tape, and it can then direct that the tape be advanced to the next file mark" (Column 2, lines 13-25). Therefore, it would have been obvious to one of ordinary skill in the art to combine the Data Storage Device of Fish with Osterlund's Disk Data Storage Device and Method so that the device/method would include a definite order of events that would make the system more efficient.

7. Claims 8, 16 and 24 are rejected under 35 U.S.C.103(a) as being unpatentable over Fish as applied to claims 1, 9, and 17 above, further in view of Zulch (US Patent 5,150,473).

Fish teaches the limitations of claims 1, 9, and 17 for the reasons above.

Fish's invention differs from the claimed invention in that there is no mention of when the tape speeds up and slows down.

Fish fails to teach claims 8, 16 and 24 which state that there is device/method that "comprises a tape drive comprising a tape head, and wherein said last of said (N) files comprises a file end, further comprising the steps of: moving said magnetic tape in a first direction at a first

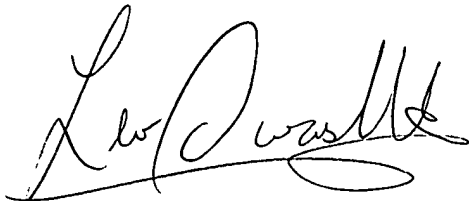
speed during said identifying step and said reading step; moving said magnetic tape in said first direction at a second speed when said tape head reaches said file end; wherein said second speed is greater than said first speed.” However, Zulch declares that “the device scans for the flag typically at a high speed. When the reading device encounters a "flag," the device stops from its high speed traverse and enters into a low speed “read” or "write" of the tape. The stops and starts of a serial tape drive in encountering the reading and responding to flags results in an aggregate intermittent and consequently slow operation of the archived media. This characteristic is particularly aggravated in so-called "streaming" tape drives. In order for such streaming tape drives to start and stop, many mechanical and data operations must be reset. Usually the tape must back up, reset certain data collection parameters and reenter into the streaming mode each time that a stop is called for” (Column 3, lines 17-33). Therefore, it would have been obvious to one of ordinary skill in the art to combine the Data Storage Device of Fish with Zulch’s Data Storage Format so that the device/method would allow for the tape to speed up and slow down at various times to increase the overall speed of the system, and reduce the time it took for the system to perform operations.

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lev I. Iwashko whose telephone number is (571)272-1658. The examiner can normally be reached on M-F (alternating Fridays), from 8-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Matt Kim can be reached on (571)272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lev Iwashko



MATTHEW D. ANDERSON
PRIMARY EXAMINER